DISCUSSION PAPER

Principles and Policies Governing Professional Legislation in Alberta

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Council on Professions and Occupations

August 1989

Alberta
PROFESSIONS AND
OCCUPATIONS BUREAU

89-05696/

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Fundamental Objectives

- The fundamental purpose of professional legislation is to regulate professions in the public interest.

- In order to promote the interests of the public, professional legislation shall establish standards, procedures and controls which, to the fullest extent possible:

  (i) protect service users and the public from incompetent or unethical providers of professional services;
  (ii) promote quality, efficiency and cost effectiveness in the provision of professional services;
  (iii) balance the rights and responsibilities of professionals, service users and the public; and
  (iv) enable service users to exercise informed judgement and freedom of choice with respect to professional services.

Accountability and Delegated Self-Governance

- Self-governance is a privilege delegated to a profession only when the public interest is served by doing so, and when the advantages clearly outweigh the disadvantages.

- Where appropriate, the privileges, responsibilities and powers of self-governance shall be delegated by the government, on behalf of the public, through professional legislation. If it is not in the public interest to delegate full self-governing authority to certain professions, the government shall establish other mechanisms for their governance.

- Professional legislation shall delegate to the professional association of self-governing professions a range of regulatory responsibilities. The professional association shall be held accountable to the public it serves and to the government for the performance of these statutory functions.

- The percentage of public representation on each profession's governing body, disciplinary body and other professional committees that have regulation-making power should be increased **significantly** in the interest of public accountability, and the decisions of such bodies shall be appealable. The extent of such public representation shall be determined in consultation with the profession and the public. The expenses of public representatives shall be paid by the professional association.

- Regulations pursuant to a professional statute shall be approved by a majority of the profession's members voting at a general meeting or in a mail vote and by the Lieutenant Governor in Council before they come into force. Bylaws shall be approved by the membership, but will not require government approval.

Standards

- Professional associations shall be responsible for ensuring that registered or licensed practitioners maintain acceptable standards of competency and conduct.

Entrance Requirements

- Educational, experiential and other requirements for entry into professions shall be reasonable and effective, and shall not be used to control the market for professional services by arbitrarily restricting access to practice.

- Educational and experiential standards shall be set and monitored by a body at arm's length from the profession.

Reciprocity and Portability of Credentials

- Interprovincial reciprocity, acceptance of national standards and portability of credentials is desirable, but the province's vulnerability to standards set by national associations must be safeguarded, where such standards would adversely affect the public interest.

Practice Review

- Professional legislation shall establish within each self-governing professional association a statutory committee whose function is to:

  (i) advise the governing body of the association with respect to desirable standards of practice and competence; and
  (ii) review the practice of registered or licensed practitioners to ensure that they are maintaining acceptable standards.

Code of Ethics

- Each self-regulating profession shall develop and publish a code of ethics which establishes enforceable standards of practice and conduct and emphasizes public protection. Codes of ethics shall be included in each profession's bylaws and not in statutes or government-approved regulations.

Continuing Education

- All professions shall develop continuing education programs with their own resources for their members. If a profession deems it advisable that such continuing education programs should be mandatory, it shall include such requirements in the regulation of that profession. Disciplinary or registration decisions relating to mandatory continuing education requirements shall be appealable.

Equitable Procedures

- Professional legislation shall:

  (i) observe the principles of natural justice and fairness;
  (ii) ensure, to the fullest extent possible, that citizens are free to obtain services from the practitioner of their choice;
  (iii) recognize, to the fullest extent possible, the right of competent practitioners to offer their professional services to the public; and
  (iv) establish fair and equitable procedures for investigating complaints and disciplining incompetent or unethical practitioners.

Scope of Practice and Right to Title

- Specialization and divisions of labour are necessary and desirable features of contemporary professional service systems. Professional legislation shall:

  (i) recognize that several professions often have a legitimate role to play in a particular field of practice; and
  (ii) ensure that practitioners may provide services appropriate to their training and competence.

Exclusive Scope of Practice

- An exclusive scope of practice shall be established only if the public interest is clearly served by doing so, and if the benefits in terms of public protection clearly outweigh the costs.

Right to Title

- In fields where an exclusive scope of practice is not established, professional legislation shall ensure that the public can distinguish between practitioners who are governed by professional legislation and those who are not. Registered practitioners shall be granted the exclusive right to use a specific title.

Unregistered Practitioners

- Practitioners who are not members of a regulated profession shall not be permitted to represent, expressly or by implication, that they are registered.

Information

- Effective public information and education are vital elements of public protection and freedom of choice. Self-governing professions shall be responsible for ensuring that the public has access to information which enables citizens to make informed, sophisticated decisions regarding professional services.

- Each self-governing professional association shall submit an annual report to the Legislature.

Complaints and Discipline

- Professional legislation shall establish procedures which:

  (i) enable any citizen to make a complaint about the conduct of a registered or licensed practitioner;
  (ii) ensure a thorough and expeditious investigation of such complaints; and
  (iii) allow for fines, suspensions and other sanctions to be imposed against incompetent or unethical practitioners.

- All disciplinary hearings shall be open to the public unless, due to the confidential nature of the matter, the complainant requests that the hearing be held in camera.

Economic Considerations

- If a professional association performs both of the following functions:

  (i) statutory, regulatory and disciplinary functions on behalf of the public; and
  (ii) collective bargaining functions on behalf of its members;

  the professional association shall ensure that the two functions are structurally and functionally independent of each other. The profession may choose to do so by separating the functions within a single organization or by establishing separate organizations for each function.

- Professional associations that perform regulatory functions should not become involved in negotiating fee-for-service schedules. If an association is involved in this type of negotiating, it must have a clear separation between fee negotiating and regulatory functions.

Role of the Government

- The Minister Responsible for Professions and Occupations, the MLA who is the Chairman of the Council on Professions and Occupations and the administrative structure, the Professions and Occupations Bureau, shall be responsible for coordinating the development of professional legislation, administering the Principles and Policies Governing Professional Legislation in Alberta, addressing policy issues respecting professional regulation, and, where appropriate, administering professional legislation.

- The Lieutenant Governor in Council shall have the authority to approve, reject, amend and enact regulations.